



THE MARITIME LABOUR CONVENTION (MLC) AND CRUISE SHIP CREW CLAIMS

Iwam Jaeger
May 2025

Index

Overview of the MLC

- Introduction to the Convention
- The Convention applicable to cruise ship crew
- What the Convention ensures?
- Amendments to the MLC

Brief introduction to the cruise industry in brazil

MLC in Brazil

- Implementation
- Key Issues Regulated
- Legal conflict: MLC vs Brazilian Labour Law

The background features a close-up, grayscale image of a thick rope tied in a knot. Overlaid on the left side of the image are several thin, light-colored geometric lines that form a series of connected triangles and polygons, creating a modern, architectural feel.

OVERVIEW OF THE MLC

Maritime Labour Convention (MLC 2006)

Introduction to the Convention

- The Maritime Labour Convention (MLC 2006) is an international treaty adopted by the International Labour Organization (ILO) that aims to regulate the working and living conditions of **seafarers**.
- Adopted by the 94th Session of the International Labour Conference (ILC) on February 23, 2006.
- MLC revises and consolidates 37 existing conventions and related recommendations of the ILO.
- MLC came into global **effect in 2013**: 12 months after ratification by 30 countries (e.g., the Philippines in 2012) and covering 33% of the world's gross tonnage (achieved in 2009).
- According to the ILO, the MLC has been ratified by 108 ILO member states, covering **96.6%** of the world's gross tonnage.
- MLC is widely regarded as the "fourth pillar" of international maritime law, alongside:
 - SOLAS (Safety of Life at Sea): deals with the safety of ship construction, equipment, and operation;
 - MARPOL (Marine Pollution): addresses the prevention of pollution from ships;
 - STCW (Standards of Training, Certification and Watchkeeping): sets training and qualification standards for seafarers.

Maritime Labour Convention (MLC 2006)

The Convention applicable to cruise ship crew

- MLC aims to ensure **minimum standards** for **seafarers**.
- Principle **firm on rights, flexible on implementation**.
- Standardise seafarers' rights across nations and flags to ensure the health, safety, and welfare of the crew.
- Cruise ship crew members are covered by the MLC, as they are considered seafarers for being **regularly employed to work on cruise ships that explores commercial activities**:



Seafarer: *"any person who is employed or engaged or works in any capacity on board a ship".*

Excludes those working occasionally (e.g., maintenance technicians, scientists, researchers, auditors, owners, pilots, dockworkers).



Ship: Any vessel owned by a public/private entity normally engaged in commercial activities, "ordinarily engaged in commercial activities", excluding fishing, warships or naval auxiliaries.

Maritime Labour Convention (MLC 2006)

What the Convention ensures?

- MLC requires the issuance of two key documents for ships covered by the Convention: the **Maritime Labour Certificate** and the **Declaration of Maritime Labour Compliance**.
- These documents confirm that the ship has been inspected and complies with the MLC's **minimum standards** for **seafarers**.
- The inspection and certification process covers various crucial areas, including:
 - Minimum age of seafarers;
 - Medical certification requirements for crew members;
 - Seafarers' qualifications and employment agreements;
 - Use of licensed or regulated recruitment and placement services;
 - Compliance with hours of work and rest regulations;
 - Adequate manning levels for the ship;
 - Conditions of accommodation onboard;
 - Availability of onboard recreational facilities;
 - Standards for food and catering;
 - Occupational health and safety measures, including accident prevention;
 - Provision of onboard medical care;
 - A clear onboard complaints procedure;
 - Timely payment of wages;
 - Financial security for repatriation and shipowners' liability in cases of abandonment or work-related injury.

Maritime Labour Convention (MLC 2006)

Amendments to the MLC

2014 Amendments: Financial Security

(entry into force: 18 Jan 2017)

Introduced **mandatory financial security** for:

- **Seafarer abandonment:** Covers repatriation costs, essential needs, and up to 4 months outstanding wages.
- **Shipowner's liability:** Covers contractual claims for death or long-term disability due to occupational injury/illness. Requires full payment without delay and interim payments for long-term disability if needed.

2016 Amendments: Health & Safety

(entry into force: 8 Jan 2019)

- Added **harassment** and **bullying** as occupational injury/illness, recommending investigation of related issues.
- Allowed up to 5-month Maritime Labour Certificate's validity extension after a successful renewal inspection if a new certificate cannot be immediately issued.
- Updated certificate format to reflect this

2018 Amendments: Piracy/Armed Robbery

(entry into force: 26 Dec 2020)

- Seafarer's **employment agreement continues** in effect while held captive due to piracy or armed robbery, regardless of expiry date or termination notice.
- Wages continue to be paid during the entire period of captivity until release and repatriation, or date of death if applicable.
- Clarified that the entitlement to repatriation does not lapse when a seafarer is held captive.

2022 Amendments: Various Subjects

(entry into force: 23 Dec 2024)

- **Social connectivity:** Onboard recreational facilities to include internet access, with reasonable charges where possible.
- **Food and water:** Must be provided free of charge, meeting nutritional, quality, and cultural/religious needs.
- **Death reporting:** Investigate and report all seafarer deaths annually to ILO.
- Among others.

The background features a close-up, high-contrast image of a thick, braided rope, likely made of natural fibers, coiled in a loose knot. The rope's texture is highly detailed, showing individual strands and the intricate weaving pattern. Overlaid on the left side of the image is a thin, light-colored geometric line that forms a series of connected segments, resembling a stylized 'Z' or a path. The overall color palette is muted, with the rope appearing in shades of beige and light brown against a slightly darker, textured background.

BRIEF INTRODUCTION

TO THE CRUISE INDUSTRY IN BRAZIL

Cruise Industry in Brazil

(season 2023/2024)



9 ships in operation in Brazil during the season:

Costa Cruises: 3 ships

MSC Cruises: 6 ships

30 transit ships - not regular coastal service

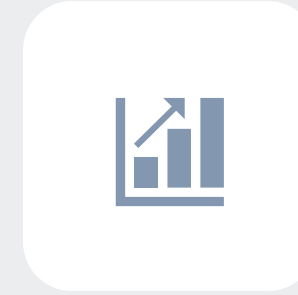


844,462 passengers
(highest in the historical series)

93,829 passengers per ship
(highest in the historical series)

10,477 crewmembers (total in the Brazilian season)

12,640 crewmembers in transit ships



Global growth of cruisers (2019-2023): increase of **7%**.

Growth in Brazil (2019-2023): increase of **31%**, the highest percentage growth in the world.

In **2019**, **567,500 Brazilians** embarked on cruises.

In **2023**, this number rose to **740,500 Brazilians**.

The background features a close-up, high-resolution image of a thick, light-colored rope, possibly made of natural fibers, showing its intricate texture and twisted strands. A thin, dark geometric line, resembling a stylized 'V' or a corner bracket, is superimposed on the left side of the image, extending from the top left towards the bottom left.

Brazil and the MLC

MLC in Brazil

Brief overview

Implementation in Brazil

- Ratified in 2020, in force since 7 May 2021,
- Decree no. 10.671/2021 incorporated both the MLC and its 2014 amendments into Brazilian law.
- Brazil did not ratify the 2018 amendment on piracy
- Brazil later introduced Ordinance MTP No. 3.802/2022 on November 16, 2022, to regulate the implementation of MLC provisions within the national jurisdiction.

Key Issues Regulated under the MLC and Ordinance No. 3.802/2022:

- Guarantee of repatriation rights for seafarers;
- Mandatory employment contract requirements;
- The role of Recognized Organizations (ROs) for both certification and recruitment services;
- The enforcement of the onboard complaints procedure system to safeguard workers' rights.

MLC in Brazil

Brief overview

Legal Conflict: MLC vs Brazilian Labour Law

- Conflicting norms
- There is no unanimous understanding within the Brazilian Superior Labour Court.

Crew Claims

- Labour contract
- Personal injury
- Moral or sexual harassment

Thank you!

Iwam Jaeger

iwam@kincaid.com.br | +55 (21) 99386-9007



kincaid.com.br



[/kincaid-mendes-vianna-advogados](https://www.linkedin.com/company/kincaid-mendes-vianna-advogados)



[@kincaid.mendesvianna](https://www.instagram.com/kincaid.mendesvianna)